

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FRANK T. HENNESSEY, et al.,	:	
	:	
Plaintiffs,	:	Civil Action No. 06-143 (NLH)
	:	
v.	:	O R D E R
	:	
ATLANTIC COUNTY DEP'T. OF	:	
PUBLIC SAFETY, et al.,	:	
	:	
Defendants,	:	
	:	

For the reasons expressed in the Court's Opinion filed herewith,

It is on this 18th day of September, 2006,

ORDERED that, pursuant to 28 U.S.C. § 1915(a) and (b), the applications by plaintiffs, Frank T. Hennessey, Gilbert Bonilla, Lin Hong, Luis A. Guijarro, Lavar Winder, Anthony Giella, Pedro Montero, Michael Jeril, Diego Andres, Khalid Butt, Richard Boler, Ervin Wyman, Antwan Issa, Thomas Adams, Luis Gonzalez, Joe Mello, Caesar Balmaceda, Rolando Hernandez, and Shawn Whaley, to proceed in forma pauperis are hereby granted; and it is further

ORDERED that the Clerk of the Court is directed to file the Complaint without prepayment of the filing fee; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b), the Clerk shall serve a copy of this Order by regular mail on the Attorney General of the State of New Jersey and on the Wardens at Atlantic

County Justice Facility and Bayside State Prison;¹ and it is further

ORDERED that plaintiffs are assessed a single filing fee of \$250.00² which shall be deducted from plaintiffs' prison accounts pursuant to 28 U.S.C. § 1915(b)(2) in the manner set forth below, regardless of the outcome of the litigation; and it is further

ORDERED that, pursuant to 28 U.S.C. § 1915(b)(2), until the \$250.00 fee is paid, each month that the amount in plaintiffs' prison accounts exceed \$10.00, the agency having custody of the 19 plaintiffs shall assess, deduct from their accounts, and forward to the Clerk payments equal to 20% of the preceding month's income credited to each plaintiff's prison account, with each payment referencing the civil docket number of this action; and it is further

ORDERED that, because 84 plaintiffs have failed to prepay the \$250.00 filing fee or submit complete applications to proceed in forma pauperis, as directed by this Court pursuant to 28

¹ Plaintiff, Frank T. Hennessey is presently confined at Bayside State Prison. He was transferred there from the Atlantic County Justice Facility after this action was initiated. The remaining 18 plaintiffs are confined at the Atlantic County Justice Facility.

² This Complaint was submitted for filing on or about January 12, 2006, before the \$350.00 filing fee became effective on April 9, 2006.

U.S.C. § 1915(a)(2), the Clerk of the Court is directed to deem these plaintiffs³ as withdrawn from this action;

ORDERED that plaintiffs' claims asserting prosecutorial misconduct, conspiracy and ineffective assistance of counsel against the defendants, Atlantic County Prosecutor's Office and the Atlantic County Public Defender's Office, and the claims alleging denial of access to the courts and denial of medical care, and the claim challenging the assessment of the 10% VCCB tax, shall be SEVERED from this action, pursuant to Fed.R.Civ.P. 21; and it is further

³ The 84 plaintiffs are: Cherie Starn, Theresa Calligon, Lisa Kli, Alice Luker, Gupta Bornett, Raniel Martinez, Arthur Schellinger, Ronald Hurless, Lee Waters, Jesus Raligrog, Albert Bioms, Michael Rapp, Anthony Anuto, Arsell Lewis, Jr., Matthew DiPoa, Eugene McArthur, Jason Lee, Tyrone Nelson, Kevin Washington, Henry Puerto, Eugenio J. Hidalgo, Luis Mirobles, Wilma Brance, Nygel A. Mitchell, Mike DiCampi, Rolando Carr, Eugene James, Amin Blake, Victor Figuereo, Jamil Demby, Angel Garcia, Alexander Ramirez, Hinj Duoz, Vinh Ngo, Jon Nichadowkz, Troy Strachan, Eugene Gunther, Anthony Gianpaba, Brian William, Cheryl Johnson, Heleena Hendricks, Carolyn Crotti, Simone Timbrook, Margaret Rohutser, Tanya Davis, Maritza Pontalatn, Dawn Hendrix, Kathleen Barnes, Sheree Figaro, Danielle Nuttall, Candace Carter, Joann Hart, Tiffany Parker, Maria Aguilera, Patricia L. Green, Charlene Jackson, Theresa Thompson, Stacey Hughes, Michelle Long, Velecia Smith, Carmen L. Roberts, Angela Whitted, Mia Jubilee, Siddeey Ah Harris, Sharron Faulkner, Denise Jenkins, Miki Ferguson, Linda Jackson, Kelly Buchanan, Margaret Petty, Donna Phillips, Desiree Petty, Tynisha Seibold, Kathleen Westall, Crystal Barnett, Jolita Swann, Marjorie Castillo, Shamika Henderson, Sarah Watson, Jane Doe, Stephanie Jennings, Roberto Fuentes, Sheila Kramer, and Mike Sanuck.

ORDERED that the Clerk of the Court shall open a new case for each of the 19 plaintiffs⁴ in this action, with each plaintiff's in forma pauperis application as filed in this action to be docketed in the new case; and it is further

ORDERED that the Clerk of the Court shall enter this Order and the related Opinion in this action on the docket in each of the 19 newly-opened cases; and it is further

ORDERED that, within 30 days after entry of this Order, each of the 19 plaintiffs may indicate his/her intent to proceed with the severed claims by filing an amended complaint asserting his/her individual claims in his/her new case; and it is further

ORDERED that, if any of the 19 plaintiffs fail to file such an amended complaint in his/her new case, the new case shall be deemed withdrawn, and such case shall be closed without further notice; and it is further

ORDERED that the Complaint filed in this action is DISMISSED WITH PREJUDICE, in its entirety, as against the defendant New Jersey Department of Corrections, pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii) and 1915A(b)(1); and it is further

⁴ The 19 plaintiffs are: Frank T. Hennessey, Gilbert Bonilla, Lin Hong, Luis A. Guijarro, Lavar Winder, Anthony Giella, Pedro Montero, Michael Jeril, Diego Andres, Khalid Butt, Richard Boler, Ervin Wyman, Antwan Issa, Thomas Adams, Luis Gonzalez, Joe Mello, Caesar Balmaceda, Rolando Hernandez, and Shawn Whaley.

ORDERED that the named defendants, Atlantic County Prosecutor's Office and the Atlantic County Public Defender's Office, are DISMISSED from this action because the claims asserted against them have been severed; and it is further

ORDERED that plaintiffs' claims challenging the conditions of their confinement as unconstitutional (inclusive of the claim seeking reimbursement of the \$50.00 housing fee) SHALL PROCEED at this time; and it is further

ORDERED that the Clerk of the Court shall issue summons, and the United States Marshal shall serve a copy of the Complaint, summons, and this Order and related Opinion upon the remaining defendants, Atlantic County Dep't. of Public Safety, Aramark, Inc., and C.F.G. Health Systems, pursuant to 28 U.S.C. § 1915(d), with all costs of service advanced by the United States; and it is further

ORDERED that defendants, Atlantic County Dep't. of Public Safety, Aramark, Inc., and C.F.G. Health Systems, shall file and serve a responsive pleading within the time specified in Federal Rule of Civil Procedure 12, pursuant to 42 U.S.C. § 1997e(g)(2); and it is further

ORDERED that plaintiffs' motion for class certification is denied without prejudice for failure to satisfy the requirement under Fed.R.Civ.P. 23(a)(4); and it is further

ORDERED that plaintiffs' application for appointment of counsel is GRANTED, and that, pursuant to 28 U.S.C. § 1915(e)(1) and Appendix H of the Local Civil Rules, the Clerk shall appoint an attorney from the Civil Pro Bono Panel to represent plaintiffs' in this action; and it is finally

ORDERED that the letter requests submitted by inmates Carlos Acosta, Carlos Cruz, and Charles Sellers (Docket Entry Nos. 30, 34 & 38), seeking joinder in this action, are DENIED without prejudice for failure to submit either the filing fee or a complete in forma pauperis application.

A handwritten signature in black ink, appearing to read "Noel L. Hillman", is written over a horizontal line.

NOEL L. HILLMAN
United States District Judge

At Camden, New Jersey